REMARKS

The present invention relates to an online music-data-providing system. The system includes a music-data-providing server 10 which provides music data online through a network 50 such as the Internet. A mobile communication system 20 is connected to that network 50 for transmitting the music data.

A mobile station 30 is installed within a vehicle and communicates via Bluetooth protocol with a headset 40 worn by the user. The headset thus performs short range radio links using Bluetooth protocol such that the headset 40 receives the music data from the server 10 through the mobile station 30 and then reproduces the music data and outputs that music data to speakers contained within the headset 40.

In order to enable the transmission and reception of music, the headset contains a decompressor which decompresses the compressed music data received from the music data server 10. This decompressor 430 thus decodes the music data received by the mobile station 30 and sent to the Bluetooth communication unit. Such reception of the compressed music data and the subsequent decompression of that data by the headset facilitates the streaming of music from the server 10 on a real-time or better basis.

The decoder also comprises a first decryptor 432 which decompresses the music data in real time while receiving the music data from the mobile station. The first decryptor outputs the data to the audio output unit when the music data are streaming the music data. A second decoder also decodes the music data after the music data is completely transmitted from the mobile station when the music data are general music data. In that event, a second decryptor 436 decompresses the music data decoded by the decoder and outputs them to the audio output unit.

Claim 1 remains as the only independent claim in the instant application. Claim 1 has been amended to incorporate a portion of previously submitted claim 2 so that no new issues are presented by the amendment to claim 1. In particular, the portion of claim 2 incorporated into claim 1 is directed to the decompression of the music data by the headset 40.

Claim 1 has also been amended to more clearly define the compressor as comprising both the first decryptor which decompresses the music data in real time while receiving the music data from the mobile station. Claim 1 has also been amended to more clearly define the decoder for decoding the music data after it has been completely transmitted from the mobile station when the music data are general music data. A second decryptor then decompresses the music data decoded by the decoder and outputs that decompressed data to the audio output unit. Consequently, Applicant's provision of the two decryptors and decoder not only enables the unit to decompress music in real time, but also to decode and decrypt general music data following transmission of that music data.

The Patent Examiner, however, has rejected previously submitted claims 1-12 under 35 U.S.C. §112. However, in view of the amendment made to claim 1, it is believed that this basis for rejection has been overcome.

On a more substantive basis, the Patent Examiner has rejected previously submitted claims 1 and 2 as unpatentably obvious under 35 U.S.C. §103 over U.S. Patent No. 7,010,500 to Aarnio when combined with U.S. Patent No. 5,771,438 to Palermo, when further combined with U.S. Patent No. 5,838,384 to Schindler and when further combined with U.S. Patent No. 6,678,215 to Treyz. However, in view of Applicant's amendment to claim 1, Applicant respectfully submits that the above basis for rejection is in error and should be withdrawn.

More specifically, the Aarnio patent discloses an online subscription service which utilizes a subscription server 20 (see FIG. 1) which transmits the data through the Internet 16 and a mobile network 12 to a mobile terminal 14. Even though the Aarnio patent is really directed to an electronic "book-of-the-month" subscription service (see claim 1, first two lines), the Aarnio patent is clearly relevant to the instant application. The Aarnio patent, however, lacks a few essential components of claim 1, as amended.

In particular, there is no indication of a Bluetooth protocol communication between the terminal and a headset in the Aarnio patent and this aspect of Applicant's invention is now clearly defined in claim 1. Similarly, there is absolutely no discussion of a compression and decompression of the data at the mobile terminal 14 or, more specifically, at the headset which communicates by the Bluetooth protocol with the mobile terminal. These aspects of Applicant's invention, however, are clearly and positively set forth in claim 1, the only independent claim in the instant application.

In order to overcome the deficiencies of the Aarnio patent, the Patent Examiner first relies upon the Palermo patent which discloses a mobile telephone which communicates with an earpiece by utilizing the Bluetooth protocol. The Patent Examiner then concludes that it would be obvious to modify the Aarnio patent to include the Bluetooth protocol as taught by Palermo. Applicant, however, respectfully submits that this conclusion is in error.

More specifically, Applicant does not now nor has it ever claimed to have invented the Bluetooth protocol. Indeed, the fact that we have a word for it – namely, Bluetooth protocol – is conclusive that the Bluetooth protocol is a well known and existing communication protocol.

Consequently, the proper inquiry is not whether there are prior art references that disclose Bluetooth protocol – there most certainly are –, but rather whether it would be obvious to modify

the Aarnio patent to incorporate the Bluetooth protocol. Applicant respectfully submits that the answer to this latter, and more pertinent, question is "no."

More specifically, the mobile terminal 14 referenced in the Aarnio patent is described as a palm sized personal computer, PDA or wireless phone. As such, there is no reason, whatsoever, for the mobile terminal 14 to further generate wireless communications using the Bluetooth protocol. As such, it would not be obvious to combine Aarnio with Palermo in the fashion suggested by the Patent Examiner.

The Patent Examiner's further reliance upon the Treyz patent is not entirely understood and is thought to be in error and should be withdrawn. In particular, the Patent Examiner's states on page 3, penultimate line in his October 18, 2007 Office Action that "Treyz teaches that a Bluetooth device is installed in a vehicle ..." and specifically refers to column 8, lines 25-40 and column 5, line 66 – column 10, line 24. Applicant, however, has reviewed the Treyz patent, and particularly the sections delineated by the Patent Examiner, and reaches a different conclusion.

In particular, the Treyz patent is merely directed to an alarm clock which may receive voice communication from a number of different audio providers. Some of these audio providers, furthermore, do so by wireless communication, including the Bluetooth protocol. There is absolutely nothing, however, in the Treyz patent that would suggest that the alarm clock disclosed by Treyz is installed in a vehicle as suggested by the Patent Examiner in his Office Action. In short, the Treyz patent merely adds very little to the teachings of Aarnio.

The Patent Examiner, however, does acknowledge on page 4, third line from the bottom, that the Treyz reference fails to teach a decompressor now positively defined in claim 1 as amended. This decompressor, of course, disclosed by the present invention allows the

compressed music data to be decompressed or expanded and outputted to the speakers contained in the user's headset.

In order to meet this deficiency of Treyz, the Patent Examiner relies upon a fourth reference, namely the Schindler patent. Applicant, however, respectfully submits that the Patent Examiner's conclusion that the Schindler patent discloses a decompressing unit for decompressing music data is in error and should be withdrawn.

More specifically, the Schindler patent is directed to a home entertainment and information system – not a mobile system contained within the vehicle as in the present invention – which assigns and transmits audio programming to audio output devices contained within the home. Specifically, the Patent Examiner references FIG. 4 and concludes that the block 412 discloses a means for decoding the received signal. Applicant, however, respectfully submits that the Patent Examiner is simply incorrect.

In particular, the block 412 in FIG. 4 of Schindler is nothing more than a digital demodulator, and a demodulation is simply a device that extracts information from a modulated signal. This, however, has absolutely nothing to do with either compression or decompression. Instead, decompression as it is used not only in this application, but also industry wide, is directed to an apparatus which expands the received compressed audio signal to reproduce that now expanded signal into audio sounds. Applicant's invention does not use the modulation or demodulation as taught by Schindler.

Furthermore, none of the references either alone or when combined together disclose or suggest Applicant's construction for the decompressor as having two decryptors and a decoder in the fashion now more clearly defined in amended claim 1. More specifically, amended claim 1 clearly defines the decompressor as having a first decryptor for decompressing music data in real

time and outputting that music data to the audio output unit. Moreover, claim 1 now clearly defines the decoder for decoding the music data after the music data has been completely transmitted from the mobile station when the music data is a general music data. Thereafter, a second decryptor decompresses the music data decoded by the decoder and outputs the data to the audio output unit.

Consequently, Applicant's construction for the decompressor not only allows for the decompression of music in real time, but also enables general music data to be completely received and thereafter decompressed by a second decryptor and outputted to the audio output unit. Absolutely none of the prior art references cited by the Patent Examiner suggest the versatility of Applicant's invention as now more clearly defined in claim 1.

Since none of the prior art references of record disclose or suggest Applicant's construction for the decompressor discussed above, Applicant respectfully submits that claim 1 patentably defines Applicant's invention over the prior art references of record and is, therefore, allowable.

Lastly, the Patent Examiner has found it necessary to rely upon no fewer than four separate references in his rejection of previously submitted claims 1 and 2 despite the relative simplicity of Applicant's invention. Applicant, however, respectfully submits that the necessity of the Patent Examiner to rely upon no fewer than four references in his previous rejection of claims 1 and 2 results, not from obviousness, but rather hindsight. Indeed, it appears that the Patent Examiner has simply selected individual bits and pieces of the prior art while using Applicant's disclosure as a template and then concluded that it would be obvious to combine these bits and pieces from the various prior art references and obtain Applicant's invention.

However, it is always obvious to recreate an invention using hindsight obtained from a reading of the patent specification. That is why such hindsight reconstruction is not permissible.

In view of the foregoing, Applicant respectfully submits that claim 1, as amended, patentably defines Applicant's invention over the prior art references of record and is, therefore, allowable. All remaining claims in this application depend from claim 1 and are, therefore, also allowable.

Such action is respectfully solicited.

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